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**RULING ON THE QUESTION OF PRIVILEGE RAISED ON APRIL 9,
2019, BY THE MEMBER FOR MARKHAM—STOUFFVILLE
CONCERNING AN ALLEGED VIOLATION OF SECTION 49.8 OF THE
PARLIAMENT OF CANADA ACT**

April 11, 2019

I am now prepared to rule on the question of privilege raised on April 9, 2019, by the honourable member for Markham—Stouffville concerning an alleged violation of section 49.8 of the *Parliament of Canada Act*.

In raising this matter, the member for Markham—Stouffville argued that caucus expulsions or readmissions require proper due process. According to her, members of the Liberal caucus were prevented from voting on the rules for this decision pursuant to section 49.8 of the *Parliament of Canada Act*. She stated explicitly that, in this case, the matter of privilege is very much about knowing which rules apply for expulsion or readmission; it is not about a possible caucus expulsion as was the issue addressed in my ruling on April 8, 2019. In her view, although the Chair has no role in the interpretation of statutes, it does not relieve the Speaker of the responsibility to ensure that all members are aware of their rights in this House.

In response, the Parliamentary Secretary to the Government House Leader informed the House that the Chair of the National Liberal Caucus had indeed sent the requisite letter to the Speaker, specifying that the provisions of the Act regarding the expulsion and readmission of caucus members would not apply for the 42nd Parliament. This, in his view, makes this question of privilege moot and removes any confusion as to which rules apply. Furthermore, he argued that it is not the role of the Speaker to adjudicate such matters.

The issue at hand is quite simple: the Chair is being asked, as was the case with the recent ruling on a similar matter, to determine whether provisions included in the *Parliament of Canada Act*, as they relate to matters of caucus, have been violated. Section 49.8(1) of the Act states:

(quote) “*At its first meeting following a general election, the caucus of every party that has a recognized membership of 12 or more persons in the House of Commons shall conduct a separate vote among the caucus members in respect of each of the following questions:*

- (a) *whether sections 49.2 and 49.3 are to apply in respect of the caucus;*
- (b) *whether section 49.4 is to apply in respect of the caucus;*

- (c) *whether subsections 49.5(1) to (3) are to apply in respect of the caucus; and*
 (d) *whether subsection 49.5(4) and section 49.6 are to apply in respect of the caucus.*" (unquote)

These requirements, which came into force when the House adopted Bill C-586, *Reform Act, 2014* in the 41st Parliament, establish processes for the expulsion and readmission of a caucus member, the election and removal of a caucus chair, leadership review, and the election of an interim leader. It is the caucus of each recognized party, not the Speaker, which bears the responsibility for ensuring that these votes are held.

In fact, the only role of the Speaker is to be advised of the caucus decision. Section 49.8(5) of the Act states:
 (quote) "*As soon as feasible after the conduct of the votes, the chair of the caucus shall inform the Speaker of the House of Commons of the outcome of each vote.*" (unquote)

The Speaker's role stops there. It does not, in any way, extend to interpreting the results of the votes, how the votes were taken, or interpreting any other relevant provisions.

This is very much in keeping with the general restraint on Speakers when they are asked to interpret the law. Speaker Fraser stated this fundamental principle in a ruling of April 9, 1991, at page 19234 of the *Debates*:
 (quote) "[...] *the Speaker has no role in interpreting matters of either a constitutional or legal nature.*" (unquote)

This is in addition to another limit on its scope of authority; that is, parliamentary privilege and, thus, the authority of the Speaker is limited to the internal affairs of the House, its own proceedings; it does not extend to caucus matters. The member for Markham—Stouffville was right to state that the Speaker bears the responsibility for ensuring that all members are aware of their rights in this House. While caucuses may have some extraneous relationship to the membership of the House, it remains just that; there is nothing to suggest that its proceedings constitute or relate to a proceeding of the House.

This leaves caucuses alone with the authority to govern their internal operations. This is also made quite clear by the wording of section 49.7 of the Act which bars against judicial review, stating:

(quote) *“Any determination of a matter relating to the internal operations of a party by the caucus, a committee of the caucus or the caucus chair is final and not subject to judicial review.”* (unquote)

With the full authority given to caucuses themselves in such unequivocal terms, it is clear that the Chair has no role in the interpretation or enforcement of this statute, even when members feel rudderless without what they feel would be clearly stated and understood rules.

For these reasons, the Chair is unable to conclude that the member for Markham—Stouffville has been obstructed in the fulfillment of her parliamentary functions. Accordingly, I cannot find that there is a prima facie question of privilege.

I thank all honourable members for their attention.